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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/098,508

03/18/2002

Hartmut Weik

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EXAMINER

NGUYEN, QUYNH H

ART UNIT

PAPER NUMBER

2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/098,508

Applicant(s)

WEIK ET AL.

Examiner

Quynh H. Nguyen

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2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 13-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim 13, claims the non-statutory subject matter of a service unit. Service unit is not statutory because it is not capable of causing functional change in the service unit. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1754 (claim to a data structure per se held nonstatutory). Therefore, since the claimed service unit is not tangibly then the Applicants has not complied with 35 U.S.C 101.

Similarly, claims 16, 14 and 17, 15 and 18, claim the non-statutory subject matter of an electronic agent, software produce, and server, respectively, have the same defects.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 5/6/02 was received. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Gell et al. (WO 94/28683).

As to claim 1, Gell teaches method for supporting the communication of information via a communications system (Fig. 1, networks 1) which comprises: communications networks of two or more network operators (Fig. 1, 1a, 1b, 1c; page 5, lines 30-37 - *telecommunications operators*), the method being such that, prior to the communication of the information, a service unit (Fig. 1, 2a, 2b, 2c) of the communications system (Fig. 1) is contacted and a request for the communication of the information is passed to the service unit (page 9, lines 3-8), wherein the service unit passes the request for the communication of the information to two or more electronic agents (processor 14 of the selection device 12) which interact with the service within the framework of a virtual electronic marketplace for information communication (page 8, lines 18-39), by means of a decision logic (page 8, lines 9-17), according to criteria

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specified by the network operator, the service unit, prompts the electronic agents through interaction within the framework of the electronic marketplace (page 3, lines 20-28) for information (page 7, lines 1-26; page 8, lines 29-31), to submit offers for the execution of the requested communication of information, an offer submitted by one of the electronic agent in response to a prompt (page 10, lines 1-3; page 9, lines 12-18; page 25, lines 25-26), through interaction within the framework of the electronic marketplace for information, is confirmed to this electronic agent by the service unit as having been accepted (page 28, lines 4-6), the service unit initiates the communication of the information via the communications network of the network operator to whom this electronic agent is assigned (page 28, lines 16-20 *-where Gell discussed proceeding to connect to the long distance operator, hence initiating the communication via the communications network or the network operator*), and this electronic agent communicates negotiated conditions for the transmission of the information via the communications network of the network operator to the network management unit of this network operator (page 28, lines 16-20).

As to claim 2, Gell teaches the request for the communication of the information requests the establishment of a communication connection between a calling terminal and one or more called terminals for the communication of the information via this communication connection (Fig. 2; page 6, lines 3-8; page 28, lines 16-20).

As to claim 3, Gell teaches transmission via satellite or fixed link (page 8, line 37), and mobile phone connected to a radio antenna, to digital cellular mobile

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equipment (Fig. 6; page 11, lines 34-37) reads on claim "connectionless communication of information from a first terminal to a second terminal.

As to claim 4, Gell teaches submitting offers for the execution of the requested communication of information (page 10, lines 1-3; page 9, lines 12-18; page 25, lines 25-26), the service unit specifies to the two or more electronic agents one or more conditions for this communication (page 28, lines 16-20).

As to claim 5, Gell teaches the service unit successively alters one or more of the conditions, respectively associated with prompt, until one of the electronic agents submits an offer (page 13, lines 17-26).

As to claim 6, Gell teaches the offer submitted by one of the electronic agents in response to such a prompt, through interaction within the framework of the electronic marketplace, specifies to the service unit one or more conditions for this communication (page 10, lines 1-3; page 9, lines 12-18; page 25, lines 25-26).

As to claim 7, Gell teaches one or more conditions specify the nature and manner of the communication of the information (page 13, lines 17-26).

As to claim 8, Gell teaches one or more conditions specify the charging of the communication of the information (page 13, lines 31-39).

As to claim 9, Gell teaches wherein offers submitted by electronic agents in response to such a prompt, through interaction within the framework of the electronic marketplace, relate only to a partial communication of the information and the service unit confirms several such offers, so that a complete communication of the information results (page 10, lines 1-3; page 9, lines 12-18; page 25, lines 25-26).

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As to claim 10, Gell teaches criteria specified by the respective network operator related to the strategy of the network operator in respect of other network operators (page 6, lines 3-8).

As to claim 11, Gell teaches criteria specified by the respective network operator related to the network loading of the network operator (page 6, lines 9-12).

As to claim 12, Gell teaches electronic agents register themselves on the electronic marketplace for information communication and only registered electronic agents receive prompts from the service unit (page 6, lines 25-33 - *where Gell discussed operators whose accessing pricing device, transmit and receive circuit, hence operators registered themselves to the system*).

Claims 13 and 16 are rejected for the same reasons discussed above with respect to claim 1.

As to claims 14 and 17, Gell teaches supporting the communication of information via a communications system which comprises communications networks of two or more network operators (Fig. 1, 1a, 1b, 1c; page 5, lines 30-37 - *telecommunications operators*), wherein software product is designed so that in its execution on a server, it performs the function of a service unit according claim 13 or 16 (page 9, lines 3-8).

As to claims 15 and 18, Gell teaches server for supporting the communication of information via a communications system which comprises communications networks of two or more network operators (Fig. 1, 1a, 1b, 1c; page 5, lines 30-37 - *telecommunications operators*), wherein the server comprises control means which are

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designed so that they perform the functions of a service unit according to claim 13 or 16 (page 9, lines 3-8).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Van Amerongen (U.S. Patent 6,658,102) teaches electronic call assistant.

Berenato (U.S. Patent 5,400,395) teaches telephone line selector and accountant.

Taniguchi et al. (U.S. Patent 4,879,742) teaches charging system in data communication network.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh H. Nguyen whose telephone number is 571-272-7489. The examiner can normally be reached on Monday - Thursday from 6:30 A.M. to 5:00 P.M.

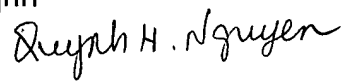
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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qhn

A handwritten signature in cursive script that reads "Quynh H. Nguyen".

Quynh H. Nguyen
February 20, 2007